

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	NO. 1:18-CR-315
v.	
JORGE LUIS ROSA-HERNANDEZ Defendant	(JUDGE JONES)

**ROSA-HERNANDEZ’S SENTENCING MEMORANDUM**  
**ADDRESSING DEFENDANTS 3553(a) FACTORS**

AND NOW, this 22<sup>nd</sup> day of November, 2019, comes Defendant, Jorge Luis Rosa-Hernandez, by and through his counsel, John F. Yaninek, Esquire and files this Additional Sentencing Memorandum regarding 18 U.S.C. § 3553(a) factors.

**FACTUAL BACKGROUND**

The Court entered a sealed Order on October 22, 2019 requesting the Defendant file an additional Brief specifically addressing the 18 U.S.C. § 3553(a) factors. This Brief is in response to that Order.

**FACTORS OUTSIDE THE ADVISORY GUIDELINE SYSTEM**

Rosa-Hernandez believes that a variance under 18 U.S.C. § 3553(a) is warranted for a number of reasons. First, it is undisputed that on April 29,

2018 Rosa-Hernandez accidentally shot his four year old daughter while outside a McDonald's restaurant is in York, Pennsylvania. This area of York is within the city and a high-crime area. Rosa-Hernandez feared for the safety of his family which led to the unlawful possession of his wife's .45 caliber pistol that was in their vehicle.

Although Rosa-Hernandez is not given any credit for acceptance of responsibility, he immediately admitted responsibility to the police on the same day that the accident occurred. He pled guilty without an agreement again admitting his responsibility in open court.

Rosa-Hernandez clearly has substance abuse problems as evidenced by his continual cocaine use. These problems are likely the result of his bipolar II disorder as reflected in the presentence report. Often individuals with mental disorders self-medicate as a means of coping with their disorder.

Despite Rosa-Hernandez psychological issues, he was able to maintain regular employment working as a mechanic.

Finally, he did not have any paternal figure throughout his life and is part of a large family where he likely did not get a lot of individual attention.

Defendant Rosa-Hernandez respectfully requests a sentence below the maximum allowed for him of ten (10) years. Sentencing Rosa-Hernandez to a maximum sentence would be unduly harsh.

Respectfully submitted,

THOMAS, THOMAS & HAFFER, LLP

*/s/ John F. Yaninek*

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